

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEALS OF ROBERT) APPEAL NOS. 07-A-2207
AND SHARON FISHER from the decisions of the) THRU 07-A-2216
Board of Equalization of Fremont County for tax year)
2007.) FINAL DECISION
) AND ORDER

VACANT LAND APPEALS

THESE MATTERS came on for hearing October 23, 2007, in St. Anthony, Idaho before Board Member David E. Kinghorn. Board Member Lyle R. Cobbs participated in this decision. Appellant Robert Fisher and Appraiser Greg Kelley appeared at hearing. Assessor Kathy Thompson and Appraisers Bruce Hill and Kent Lords appeared for Respondent Fremont County. These appeals are taken from decisions of the Fremont County Board of Equalization denying the protests of the valuation for taxing purposes of properties described as Parcel Nos. RP000340000070A, RP000340000080A, RP000340000090A, RP000340000100A, RP000340000110A, RP000340000120A, RP000340000130A, RP000340000140A, RP000340000150A, RP000340000160A.

The issue on appeal is the market value of vacant lots.

The decisions of the Fremont County Board of Equalization are affirmed.

FINDINGS OF FACT

Parcel No. RP000340000070A (Lot 7)

The assessed land value is \$100,070. Appellants request the land value for this 13.01 acre lot be reduced to \$2,990.

Parcel No. RP000340000080A (Lot 8)

The assessed land value is \$84,050. Appellants request the land value for this 4.4 acre lot be reduced to \$1,010.

Parcel No. RP000340000090A (Lot 9)

The assessed land value is \$30,020. Appellants request the land value for this 3.16 acre lot be reduced to \$730.

Parcel No. RP000340000100A (Lot 10)

The assessed land value is \$ 37,810. Appellants request the land value for this 3.98 acre lot be reduced to \$920.

Parcel No. RP000340000110A (Lot 11)

The assessed land value is \$46,840. Appellants request the land value for this 4.93 acre lot be reduced to \$1,130.

Parcel No. RP000340000120A (Lot 12)

The assessed land value is \$42,750. Appellants request the land value for t his 4.5 acre lot be reduced to \$1,040.

Parcel No. RP000340000130A (Lot 13)

The assessed land value is \$38,040. Appellants request the land value for this 7.37 acre lot be reduced to \$1,700.

Parcel No. RP000340000140A (Lot 14)

The assessed land value is \$28,770. Appellants request the land value for this 8.66 acre lot be reduced to \$1,990.

Parcel No. RP000340000150A (Lot 15)

The assessed land value is \$28,980. Appellants request the land value for this 8.89 acre lot be reduced to \$2,040.

Parcel No. RP000340000160A (Lot 16)

The assessed land value is \$56,450. Appellants request the land value for this 8.08 acre

lot be reduced to \$1,860.

The subject properties are part of an undeveloped subdivision along the Falls River in Fremont County. The area was previously part of an active mining operation.

Appellants' value claims reflect the 2006 assessed values when the properties were granted agricultural exemptions as dry grazing land. The current 2007 assessed values are based on subjects' classification as rural residential lots. Lots 7 and 8 are adjacent to the river and valued accordingly. Lots 9, 10, 11, and 12 are separated from the river by a strip of land owned by the Bureau of Land Management, however, are considered to have views of the river and assessed as such. Lots 13, 14, 15, and 16 were valued as interior lots with no river influence.

Appellants presented photographs of the subject lots to show the condition of the land after it was mined. It was noted the land had not been reclaimed, despite reclamation agreements entered into by the operators of the mine. Most of the topsoil had been removed, exposing the underlying lava rocks.

Appellants agreed subjects were not being actively used for agricultural purposes (i.e. grazing). The reason asserted was subjects do not have the topsoil necessary to support vegetation for grazing. Respondent noted Agricultural Exemptions Determination Forms had been submitted, however the exemptions were denied because the properties were not being actively grazed.

Appellants also mentioned the subject lots are in the process of being removed from the subdivision. An application to vacate the plat map has been filed, however, the process has not yet been completed.

Assessment information concerning a roughly 250 acre parcel less than one mile from

subjects was presented. Appellants contended the land was also previously mined and left in a condition similar to subjects, yet was only assessed at \$563.48 per acre. Appellants asserted the only difference was the land had not been subdivided, as subjects had.

Appellants further disagreed with Respondent's descriptions and corresponding valuations of some of the subject parcels. Lots 7 and 8 were argued to not be riverfront lots. A canal runs along the edge of the properties near the river, thus prohibiting direct river access. Also noted was the properties suffer ice flows from the river during the winter, rendering them unbuildable near the water.

Appellants also challenged the description of Lots 9, 10, 11, and 12 as river view lots. The parcels are separated from the river by a strip of land owned by the government, as well as a canal. Further, as a result of the mining operation, the parcels were argued to be below grade and any view would only come from the top floor of a multi-story residence.

Respondent acknowledged Appellants' efforts to remove subjects from the subdivision. However, as the process had not yet been completed, Respondent argued subjects had to be valued as rural residential lots. Respondent conceded the mining operations had negatively impacted the land, however, noted other nearby subdivisions suffered similar problems, yet had been developed and sold. While it is more costly to develop a subdivision such as subjects', Respondent maintained it could be done.

To support the assessed values, Respondent presented five (5) sales of lots within subjects' subdivision. The parcels were located directly Northwest of the subjects. Four (4) of the lots were considered waterfront parcels and the remaining property was determined to be an interior lot. Respondent used these sales to determine a value per acre and applied those rates to subjects.

Respondent stated Lots 14, 15, and 16 were given a 50% downward adjustment because of the condition. Due to an administrative error, the adjustment had not been applied to Lot 16 as of the date of this hearing. Respondent testified the matter would be corrected and the lot value would be lowered by 50%.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Both parties agreed subjects do not qualify for agricultural exemptions because they are not being actively devoted to agricultural purposes. As this point was conceded, we need not discuss it further here.

This leaves the question of subjects' market values. For the purposes of taxation, Idaho Code requires property be assessed at market value.

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing sell, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment. Idaho Code § 63-201 (10).

Appellants believe subjects' condition resulting from the previous mining activity should result in lower values. Also noted was Appellants' attempt to vacate the plat map and remove subjects from the subdivision. The problem, however, is the process has not been completed. As such, Respondent had no choice but to value subjects according to their classification as rural residential properties.

The Idaho Supreme Court has recognized three approaches for establishing market value.

[T]here are three primary methods of determining market value: the cost approach, in which the value as determined by new cost or market comparison is estimated and reduced by accrued depreciation; the income approach, applicable to "income producing property" in which a capitalization rate is determined from market conditions and applied to net income from the property to determine appraised value; and the market data (comparison method) approach, in which value of the assessed property is ascertained by looking to current open market sales of similar property. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979).

Respondent utilized the market data approach to support subjects' assessments. Five (5) sales from subjects' subdivision were presented. The sales served as the basis by which subjects' per acre values were determined. Downward adjustments were made to account for the condition of some of the lots. Specifically, a 50% reduction was applied to Lots 14, 15, and 16.

Respondent's assessed values are presumed correct and the burden is on Appellants to show by a preponderance of the evidence subjects' assessments are erroneous. Idaho Code § 63-511.

We acknowledge subjects have obvious detriments, however, Appellants have failed to provide support for the value positions indicated on the appeal forms. As noted earlier, the values asserted by Appellants reflect subjects' 2006 values when the lots were assessed under an agricultural exemption. As the lots no longer qualify for the exemption, Appellants needed to provide market data or other value evidence to overturn the 2007 assessments as rural residential parcels. No such evidence was provided. Respondent presented the better supported value case. Accordingly, the decisions of the Fremont County Board of Equalization are affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decisions of the Fremont County Board of Equalization concerning the subject parcels be, and the same hereby are, affirmed.

MAILED APRIL 30, 2008